

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

RODRICK L. SMITH,

Petitioner,

Case No. 3:05 CV 1486

-vs-

MEMORANDUM OPINION  
AND ORDER

MARGARET BRADSHAW,

Respondent.

KATZ, J.

Pending before this Court is the Report and Recommendation (“R & R”) of Magistrate Judge Vernelis K. Armstrong filed January 31, 2006 (Doc. No. 22) as to which Petitioner, Rodrick L. Smith, (“Smith”) has filed objections. (Doc. No. 28).

In accordance with *Hill v. Duriron Co.*, 656 F.2d 1208 (6th Cir. 1981), and 28 U.S.C. § 636(b)(1)(B) & (C), this Court has made a *de novo* determination of the Magistrate’s findings to which the Petitioner objects. For the following reasons, the Court finds Petitioner’s objections are not well taken and the same are denied.

Wherefore, Smith’s petition for writ of habeas corpus is denied and this case dismissed. Further, the Court finds that there are no legal points which would be arguable on their merits in an appeal of this case. Furthermore, the Court has determined *sua sponte* that no certificate of probable cause should issue in this case as any appeal would lack substantial merit.

It is therefore,

**ORDERED**, that the January 31, 2006 Report and Recommendation be, and hereby is, adopted as the Order of this Court.

**FURTHER ORDERED** that under 28 U.S.C. §1915(a), an appeal of this case should not proceed *in forma pauperis* as it would not be taken in good faith.

**FURTHER ORDERED** that a motion for certificate of probable cause under 28 U.S.C. §2253 is hereby denied *sua sponte*.

**FURTHER ORDERED** that Petitioner's motion for leave to expand (Doc. No. 25), motion for discovery (Doc. No. 26) and motion to clarify (Doc. No. 29) are denied as moot.

S/ David A. Katz  
DAVID A. KATZ  
SENIOR U. S. DISTRICT JUDGE